



**MotleyRice**

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March 13, 2009

**Certified Mail-Return Receipt Requested**

**The Poultry Federation**  
Attn: Marvin Childers  
321 South Victory  
Little Rock, AR 72701

Re: State of Oklahoma, et. al v. Tyson, et. al  
Civil Action Number: 05-CV-0329-GKF-SAJ

Dear Mr. Childers:

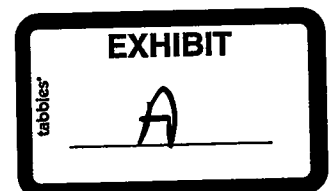
Enclosed and intended as service upon you, please find a Subpoena for the deposition of The Poultry Federation along with our office check in the amount of \$40.00, which represents payment of witness fees.

Sincerely,

Elizabeth C. Ward

**Enclosures**

cc: Jamie Huffman Jones (w/enclosures)



www.motleyrice.com

Motley Rice LLC  
Attorneys at Law



HARTFORD

ONE CORPORATE CENTER  
20 CHURCH ST., 17TH FLOOR  
HARTFORD, CT 06103  
860-882-1681  
860-882-1682 FAX

MT. PLEASANT

28 BRIDGESIDE BLVD.  
P.O. BOX 1792  
MT. PLEASANT, SC 29465  
843-216-9000  
843-216-9450 FAX

PROVIDENCE

321 SOUTH MAIN ST.  
P.O. BOX 6067  
PROVIDENCE, RI 02940  
401-457-7700  
401-457-7708 FAX

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> <li>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>■ Print your name and address on the reverse so that we can return the card to you.</li> <li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		A. Signature <i>Chulita Binkley</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to:  <p style="text-align: center;">The Poultry Federation Attn: Marvin Childers 321 South Victory Little Rock, AR 72701</p>		B. Received by (Printed Name) 1. C. Date of Delivery 3/17/09	
		D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.	
		4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label)		7006 0810 0000 4498 3477	
PS Form 3811, February 2004		Domestic Return Receipt 102595-02-M-154	

U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
For delivery information visit our website at <a href="http://www.usps.com">www.usps.com</a>	
<b>OFFICIAL USE</b>	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	
Sent To	The Poultry Federation
Street, Apt. No., or PO Box No.	Attn: Marvin Childers
City, State, ZIP+4	321 South Victory
	Little Rock, AR 72701
PS Form 3800, June 2002 See Reverse for Instructions	

Motley Rice LLC (843) 216-9348  
 P.O. Box 1792, Mt. Pleasant, SC 29465  
 \*\*\*\*Void after 180 days\*\*\*\*

Operating Account 0107 W  
 Wachovia Bank, N.A.  
 67-776/532

043292

Pay Exactly Forty and 00/100 Dollars Date 3/13/09 Amount \*\*\*\$40.00

Pay to the  
 Order Of

The Poultry Federation  
 321 South Victory  
 Little Rock AR 72701

*John M. Behr*

⑈043292⑈ ⑆053207766⑆ 2000026284358⑈

<u>Z</u>	<u>The Poultry Federation</u>	<u>\$40.00</u>	<u>3/13/09</u>	<u>43292</u>
	The Poultry Federation-Witness fee	\$40.00		
510100	Litigation Expenses			
990201	Mt Pleasant - G&A			
383132-0	Oklahoma Poultry Pollution Case,			

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 05-cv-329-GKF(PJC)
	)	
TYSON FOODS, INC., et al.,	)	
	)	
Defendants.	)	

**NOTICE OF DEPOSITION**  
**OF THE POULTRY FEDERATION**

Please take notice that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, the deposition of The Poultry Federation, by and through its duly designated representative(s), shall be taken by the State of Oklahoma at 9:00 a.m. on April 14, 2009, at the offices of The Poultry Federation, 321 South Victory, Little Rock, AR 72701, before a qualified court reporter, such examination to continue by adjournment, if necessary, until the same is completed, on those matters set forth in the attached Exhibit A.

Respectfully Submitted,

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J. Trevor Hammons OBA #20234  
Daniel P. Lennington OBA #21577  
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Attorneys for the State of Oklahoma

**EXHIBIT "A"**

**A. DEFINITIONS AND INSTRUCTIONS**

1. When used herein "Poultry Integrators" means:

Cargill Inc., (including acquired company Rocco Farms, Inc.)  
Cargill Turkey Production LLC  
Cal-Maine Farms, Inc.  
Cal-Maine Foods, Inc.  
Cobb-Vantress, Inc.  
George's, Inc.  
George's Farms, Inc.  
Peterson Farms, Inc.  
Simmons Foods, Inc.  
Tyson Chicken, Inc.  
Tyson Food, Inc. (Including acquired company Hudson Foods, Inc.)  
Tyson Poultry Inc.  
Willow Brook Foods, Inc.

including any affiliate or subsidiary and any owner, officer, director, employee of the named Poultry Integrators.

2. The term "you" means the U.S. Poultry and Egg Association as well as any of its officers, executives, directors, agents, servants, employees and other persons or entities acting or purporting to act on its behalf.

3. The connectives "and" and "or" are to be construed either disjunctively or conjunctively as necessary to bring within the scope of this subpoena all information and materials that might otherwise be construed to be outside of its scope.

4. The term "any" includes "all" and "each;" the term "all" includes "any" and "each;" and the term "each" includes "any" and "all."

5. References to the singular are to be construed to include the plural and vice versa.

6. As used herein, "poultry waste" means poultry excrement, bedding material, feed wastes and any other waste associated with the confinement of poultry in a grow house which is removed periodically from the grow house and used or disposed of elsewhere, also commonly referred to as poultry litter.

**B. AREAS OF INQUIRY**

- 1 Membership or affiliation records of the Poultry Integrators with the Poultry Federation from 1980 to present.

2. Any discussions, meetings, studies, projects, events, programs, surveys and/or research conducted by the Poultry Federation, or under its supervision, regarding the handling, use, transport and disposition of poultry waste or poultry litter.

3. Poultry Integrators' participation in or sponsorship of any discussions, meetings, studies, projects, events, programs, surveys and/or research conducted by the Poultry Federation, or under its supervision, regarding the handling, use, transport and disposition of poultry waste or poultry litter.

4. Any discussions, meetings, projects, events, programs, surveys and/or research conducted by Poultry Federation or under its supervision regarding the effects on water quality from the handling, use, transport and disposition of poultry waste or poultry litter.

5. Poultry Integrators' participation in or sponsorship of any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on water quality from the handling, use, transport and disposition of poultry waste or poultry litter.

6. Any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on human health from the handling, use, transport and disposition of poultry waste or poultry litter.

7. Poultry Integrators' participation in or sponsorship of any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on human health from the handling, use, transport and disposition of poultry waste or poultry litter.

8. Any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on the environment from the handling, use, transport and disposition of poultry waste or poultry litter.

9. Poultry Integrators' participation in or sponsorship of any discussions, meetings, projects, events, programs, surveys, and/or research conducted by the Poultry Federation or under its supervision regarding the effects on the environment from the handling, use, transport and disposition of poultry waste or poultry litter.

10. Any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on water quality in the Illinois River Watershed (located in Oklahoma and Arkansas) from the handling, use, transport and disposition of poultry waste or poultry litter.

11. Poultry Integrators' participation in or sponsorship of any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on water quality in the Illinois River Watershed (located in Oklahoma and Arkansas) from the handling, use, transport and disposition of poultry waste or poultry litter.



12. Any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on human health in the Illinois River Watershed (located in Oklahoma and Arkansas) from the handling, use, transport and disposition of poultry waste or poultry litter.

13. Poultry Integrators' participation in or sponsorship of any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on human health in the Illinois River Watershed (located in Oklahoma and Arkansas) from the handling, use, transport and disposition of poultry waste or poultry litter.

14. Any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on the environment in the Illinois River Watershed (located in Oklahoma and Arkansas) from the handling, use, transport and disposition of poultry waste or poultry litter.

15. Poultry Integrators' participation in or sponsorship of any discussions, meetings, projects, events, programs, surveys and/or research conducted by the Poultry Federation or under its supervision regarding the effects on the environment in the Illinois River Watershed (located in Oklahoma and Arkansas) from the handling, use, transport and disposition of poultry waste or poultry litter.

16. Poultry Integrators' participation in the governance of the affairs, organization activities and policies of the Poultry Federation.

17. The nature and extent of records of or discussions, meetings, research, surveys and/or reports about and any action taken regarding the issue of the ownership or responsibility of poultry waste produced by Poultry Integrators' poultry.

18. Lobbying efforts of the Poultry Federation in the States of Oklahoma and Arkansas with respect to environmental or agricultural legislation related to poultry waste.

19. Lobbying efforts of the Poultry Federation with respect to federal environmental or agricultural legislation related to poultry waste.

20. The creation, editing and dissemination of the "Poultry Water Quality Handbook" (all editions), and the identities of the individuals who participated in the creation of and revisions of this document.

21. The creation and organization of the "National Poultry Waste Symposium" for 1988 to present including the papers, reports and presentations included therein and the identities of the individuals who organize and participate in the Symposium.

22. The distribution, dissemination, and publication of data created, received, assembled, prepared, accumulated by the Poultry Federation regarding the handling, use, transport and disposition of poultry waste or poultry litter.



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF COLUMBIA**

STATE OF OKLAHOMA,	)	
	)	
Plaintiff,	)	
v.	)	Case No.: 05-CV-329-GFK-PJC
	)	
TYSON FOODS, INC., et. al.,	)	
	)	
Defendants	)	

**CERTIFICATE OF SERVICE**

I hereby certify that on this, the 13<sup>th</sup> day of March, 2009, I electronically transmitted an electronic copy of a *Subpoena and Notice of Deposition of The Poultry Federation* to the following individuals via email:

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Daniel P. Lennington, Assistant Attorney General

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<b><u>Counsel for Council of American Survey Research Organizations &amp; American Association for Public Opinion Research</u></b>	

I further certify that on this, the 13<sup>th</sup> day of March, 2009, I mailed a copy of a *Subpoena and Notice of Deposition of The Poultry Federation* to the following individuals via the United States Postal Service:

**David Gregory Brown**  
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314 E HIGH ST  
JEFFERSON CITY, MO 65101

**Thomas C Green**  
Sidley Austin Brown & Wood LLP  
1501 K ST NW  
WASHINGTON, DC 20005

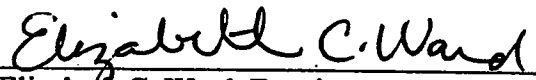
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**George R. Stubblefield**  
HC 66, Box 19-12  
Proctor, Ok 74457

**Secretary of the Environment**  
State of Oklahoma  
3800 NORTH CLASSEN  
OKLAHOMA CITY, OK 73118

  
Elizabeth C. Ward, Esquire  
Motley Rice, LLC  
28 Bridgeside Boulevard  
Mount Pleasant, South Carolina 29464

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action

**UNITED STATES DISTRICT COURT**

for the  
Eastern District of Arkansas

State of Oklahoma  
*Plaintiff*

v.  
Tyson Foods, Inc., et. al.  
*Defendants*

Civil Action No.: 05-CV-329-GFK-PJC  
*Northern District of Oklahoma*

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS  
OR TO PERMIT INSPECTION OF PREMISES**

To: The Poultry Federation  
Attn: Marvin Childers  
321 South Victory  
Little Rock, AR 72701

- ☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

**See attached Notice of Deposition.**

Place: The Poultry Federation 321 South Victory Little Rock, AR 72701	Date and Time: April 14, 2009 at 9:00 a.m.
---	--

The deposition will be recorded by this method: Court Reporter.

- ☐ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 03/13/09

CLERK OF COURT

\_\_\_\_\_  
Signature of Clerk or Deputy Clerk

OR Elizabeth C. Ward  
Attorney's Signature

The name, address, e-mail, and telephone number of the attorney representing State of Oklahoma, who issues or requests this subpoena, is: Elizabeth C. Ward, Motley Rice, LLC, 28 Bridgeside Boulevard, Mount Pleasant, SC, (843) 216-9280, eward@motleyrice.com.

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the subpoena on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the subpoena at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the subpoena to *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because \_\_\_\_\_; or

☐ other *(specify)*:

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
 tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
 \$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)****(c) Protecting a Person Subject to a Subpoena.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).